

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of) MM Docket No. 01-05
) RM-10028
Amendment of Section 73.202(b)) RM-
(Table of Allotments))
FM Broadcast Stations)
)
Butler and Reynolds, Georgia)

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

To: Chief, Mass Media Bureau
Policy and Rules Division
Allocations Branch

REPLY COMMENTS

Fort Valley State University ("the University"), by its attorneys, and pursuant to Section 1.415 and 1.420 of the Commission's Rules, hereby respectfully files its Reply to the pleadings filed in this docket pursuant to the Commission's *Notice of Proposed Rule Making* ("NPRM"), DA 01-60, released January 12, 2001,¹ which proposed to allot Channel 245A to Butler, Georgia, as its first local service. On March 5, 2001, the University filed a Counterproposal that requests the Commission to deny a proposal filed by H. David Hedrick ("Hedrick"), and instead, amend Section 73.202(b) of the Rules to add Channel *245A to Reynolds, Georgia, as its first local service, and reserve the channel for noncommercial educational ("NCE") use by appending an asterisk (*) to Channel 245A in the Table of Allotments under Reynolds, Georgia. In support whereof, the following is shown:

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List A B C D E

¹ Reply comments are due by March 20, 2001, so this reply is timely filed.

1. Comments were filed by BK Radio² on February 2, 2001, and the University's Counterproposal was filed March 5, 2001, the deadline for comments and counterproposals. Hedrick claims he filed timely comments reaffirming his intention to apply for the channel when allocated, but no such comments could be located by the Office of the University's counsel.

2. On or about March 11, 2001, Hedrick served on undersigned counsel a document entitled "Reply Comments" in response to the University's Counterproposal. Hedrick's pleading is unacceptable because it violates Section 1.49 of the Rules that requires pleadings to be double-spaced. His pleading is single-spaced. As such, it may not be considered in this docket.³ Out of an abundance of caution, the University herein responds to Hedrick's Reply Comments, in the unlikely event Hedrick's procedurally deficient Reply Comments are not dismissed summarily. In doing so, the University in no way concedes that Hedrick's pleading is acceptable for filing.

3. Hedrick claims that the University "chooses to ignore" the fact that Butler has 500+ more residents than Reynolds. This is incorrect. University provided the populations of each community.⁴ However, the University argued that the slight

2 BK Radio did nothing more than state its interest in the use of a channel at Butler, Georgia; as a result there is nothing in BK Radio's Comments requiring a reply from the University.

3 Hedrick's "Certification" contains a statement that "Since Docket 80-90 he has had numerous petitions for FM rulemakings accepted by the Commission," thus, he should be held to the same standards as others who routinely practice before the FCC.

4 Counterproposal paragraphs 3 and 7.

population difference “should be of non-decisional value,”⁵ in light of the other public interest benefits to be gained by allotting the channel to Reynolds.

4. Hedrick's perceived deficits in Reynolds do not disqualify Reynolds as a community for allotment purposes. University noted that Reynolds is incorporated and listed in the U.S. Census, and has numerous social, economic and cultural components commonly associated with community status.⁶ Hedrick's recounting of his personal visits to Butler and Reynolds is interesting, but has no probative value for the Commission's purposes in determining which community would result in a preferential arrangement of allotments.

5. Hedrick spends the balance of his comments in comparing Butler to Fort Valley. This is irrelevant and must be disregarded. The University is not seeking reallocation to Fort Valley, but rather, to Reynolds. Hedrick's contention that the University's "sole objective" is to serve Fort Valley is without basis.

6. Hedrick's suggestion that the University's students can obtain a low power FM station is speculative. The University's students two prior efforts to obtain radio service for use by the University's student body have been frustrated.

7. Hedrick's Exhibit 3 lists "Georgia Educational FM Licenses." This exhibit is immaterial except to the extent that it concedes that no FM station is licensed to the community.

⁵ Counterproposal paragraph 7.

⁶ Counterproposal paragraph 3.

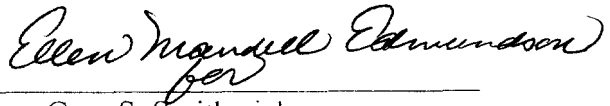
8. Hedrick's statement that the transmitter site can be located to deliver 70 dBu service over both Reynolds and Butler is irrelevant since the University does not propose dual-community licensing for the station.

9. In short, Hedrick's Reply Comments cannot be considered because they violate the Commission's procedural rules. Moreover, they compare Butler with Fort Valley, a community to which the University does not propose to allot the channel.

WHEREFORE, the University reasserts the arguments made in its Counterproposal and requests the Commission to allot Channel *245 to Reynolds, Georgia, as its first local service and deny the proposal to allot Channel 245A to Butler, Georgia.

Respectfully submitted,

FORT VALLEY STATE UNIVERSITY

By: 

Gary S. Smithwick
Its Attorney

SMITHWICK & BELENDIUK, P.C.
5028 Wisconsin Avenue, N.W., Suite 301
Washington, DC 20016
(202)363-4050

March 20, 2001


CERTIFICATE OF SERVICE

I, Sherry L. Schunemann, a secretary in the law offices of Smithwick & Belendiuk, P.C., certify that on this 20th day of March 2001, copies of the foregoing were mailed to the following:

Ms. Leslie K. Shapiro*
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W., Room A360
Washington, D.C. 20554

Mr. H. David Hedrick
Post Office Box 27
317 Stonegables Court
Gray, Georgia 31032
(Petitioner)

BK Radio
1809 Lightsey Road
Austin, Texas 78704



Sherry Schunemann

*By Hand